

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Health Care Committee

BILL: CS/SB 2434

SPONSOR: Transportation Committee and Senator Sebesta

SUBJECT: Driver Responsibility

DATE: April 16, 2005

REVISED: 04/20/05

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Meyer</u>	<u>TR</u>	<b>Fav/CS</b>
2.	<u>Munroe</u>	<u>Wilson</u>	<u>HE</u>	<b>Fav/2 amendments</b>
3.	<u>                    </u>	<u>                    </u>	<u>GE</u>	<u>                    </u>
4.	<u>                    </u>	<u>                    </u>	<u>TA</u>	<u>                    </u>
5.	<u>                    </u>	<u>                    </u>	<u>WM</u>	<u>                    </u>
6.	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

**Please see last section for Summary of Amendments**

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

**I. Summary:**

This Committee Substitute for SB 2434 (CS) establishes an additional \$25 course assessment fee for persons making a third, fourth or a fifth election to attend a driver improvement school. The assessment fees collected must be deposited in the Department of Health (DOH) Administrative Trust Fund to be allocated to trauma centers.

The CS increases the penalty for load violations from \$100 to \$200 and requires the entire fine to be deposited in the DOH Administrative Trust Fund to be allocated to trauma centers. The license suspension period is extended from a minimum of not less than 180 days to not less than one year and a maximum of no more than one year to no more than two years for a second or subsequent load violation adjudication occurring within a five-year period.

In addition, the CS creates the “Florida Driver Responsibility Law,” to provide for an assessment of surcharges on persons who accumulate seven or more points, who are convicted of driving without a license or driving without financial responsibility, or who are convicted of driving under the influence (DUI), all within the preceding thirty-six month period. Assessments of these surcharges do not apply to any convictions final before July 1, 2005. The annual surcharges range from a minimum of \$100 to a maximum of \$2,000. Funds derived from the surcharges are to be deposited in the DOH Administrative Trust Fund to fund trauma centers.

This CS requires the Department of Highway Safety and Motor Vehicles (DHSMV) to notify the holder of a driver's license by first class mail of the assessment of a surcharge, the date by which the surcharge must be paid, and the consequences of a failure to pay the surcharge.

This CS authorizes the payment of surcharges through installment payments or by the use of a credit card and provides penalties for failure to comply. This CS further authorizes DHSMV to enter into a contract with a public or private vendor for the collection of surcharges.

This CS substantially amends ss. 318.1451, 318.18 and 318.21; and creates ss. 322.75, 322.751, 322.7515, 322.752, 322.7525, 322.753, 322.7535 and 322.754 of the Florida Statutes.

## II. Present Situation:

### Florida's Driver Improvement Courses

Section 318.14(9), F.S., permits a person cited, but not convicted for certain traffic infractions to elect to attend a driver improvement course in lieu of a court appearance. In particular, persons charged with a moving violation resulting in points being assessed to their driving record, may choose to attend a driver improvement course. Persons charged with criminal traffic violations and persons holding commercial drivers licenses who are charged with serious traffic violations while in their commercial motor vehicles are excluded from electing to attend a driver improvement course. Serious traffic violations include: unlawful speed, 15 mph over the speed limit; careless or reckless driving; fleeing or attempting to elude a police officer; other traffic offenses committed in a commercial vehicle resulting in the death or personal injury of any person; and commercial motor vehicles not properly insured. Persons charged for driving or being in control of commercial motor vehicles while having any alcohol in their bodies is also excluded from electing to attend a driver improvement course.

The benefits for attending a driver improvement course to satisfy the violation are the following:

- The violation is entered on the person's driver record as "adjudication withheld;"
- No points will be assessed against the person's driver's license;
- The civil fine may be reduced up to 18 percent; and
- The person's insurance company cannot impose or request an additional premium, cancel a policy, or issue a non renewal notice on any insurance policy or contract because of any traffic infraction when adjudication has been withheld and no points have been assessed under s. 318.14(9), F.S. (See s. 626.9541(1)(o)12., F.S.)

Normally, the person's insurance company cannot impose an additional premium or refuse to renew a policy for motor vehicle insurance solely because the insured committed a non-criminal traffic infraction with the exceptions of a second infraction within 18 months, a third infraction in 36 months, or exceeding the speed limit by more than 15 mph. (See s. 626.9541(1)(o) 12., F.S.)

A person may only elect to attend a driver improvement course in lieu of court appearance five times in a lifetime. Currently, this election is for the same course each time. The annual average number of school elections in Florida is 521,584<sup>1</sup>. The number of drivers who have utilized their five elections is 57,254.

DHSMV must not accept proof of attendance from persons who attend schools that do not teach an approved course. In those circumstances, the person who has elected to take courses from such a school must receive a refund from the school and the person must have the opportunity to take the course at another school.

In addition, s. 318.1451(4), F.S., currently allows an assessment fee of \$2.50 on those persons electing to attend a driver improvement course. This assessment is remitted to DHSMV and deposited into the Highway Safety Operating Trust Fund.

#### Civil Penalties for Load Violations

According to s. 316.520(1), F.S., or s. 316.520(2), F.S., a vehicle may not be driven or moved on any highway unless the vehicle is constructed or loaded to prevent any of its load from dropping, shifting, leaking, blowing, or escaping, except that sand may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining the roadway.

It is the duty of every owner and driver of any vehicle hauling, on any public road or highway open to the public, dirt, sand, lime rock, gravel, silica, or other similar aggregate or trash, garbage, any inanimate object or objects, or any similar material that could fall or blow from the vehicle, to prevent the materials from falling, blowing, or in any way escaping from the vehicle. Covering and securing the load with a close-fitting tarpaulin or other appropriate cover or a load-securing device or a device designed to reasonably ensure that cargo will not shift or fall from the vehicle is required.

Section 318.21, F.S., provides, if, at a hearing, the alleged offender is found to have committed a violation of s. 316.520(1), F.S., or s. 316.520(2), F.S., the court must impose a minimum civil penalty of \$100. For a second or subsequent adjudication within a 5-year period, DHSMV must suspend the offender's driver's license for not less than 180 days and not more than one year.

#### Driving Under the Influence

A conviction for DUI requires proof that the person was driving or in actual physical control of a vehicle and either: (1) the person's blood-alcohol or breath-alcohol level at the time was 0.08 percent or greater; or (2) the person was under the influence of alcohol, a chemical substance or a controlled substance to the extent their normal faculties were impaired. (See s. 316.193(1), F.S.) During 2003, 34.5 percent of Florida's traffic fatalities and 9.4 percent of Florida's traffic crashes were alcohol-related.

Penalties for DUI vary according to the frequency of previous convictions, the offender's blood alcohol level (BAL) when arrested, and whether serious injury or death results. If a driver is

---

<sup>1</sup> Annual average from 2000-2004

stopped by a law enforcement officer for suspicion of DUI and refuses to take a test, his or her driving privilege is automatically suspended for one year.

Generally, modified misdemeanor penalties apply when there has been no property damage or personal injury and when there have been fewer than three DUI convictions. For example, a first-time offender is subject to a fine ranging from \$250 to \$500, as well as being subject to serving up to six months in county jail. He must also be on probation for up to one year and participate in 50 hours of community service. However, if the convicted offender's BAL is 0.20 or higher, or if a passenger under 18 years of age is present in the vehicle, the penalty is enhanced to a fine ranging from \$500 to \$1,000 and imprisonment not exceeding nine months.

A second DUI conviction carries a fine ranging from \$500 to \$1,000 and imprisonment for a period of up to nine months. However, if that offense occurs within five years of a previous DUI conviction, there is a mandatory imprisonment period of at least 10 days. At least 48 hours of this confinement must be consecutive. Enhanced penalties also apply when the offender's BAL is 0.20 or higher, or when a passenger under the age of 18 is present in the vehicle. These penalties require a fine ranging from \$1,000 to \$2,000, and imprisonment not exceeding 12 months.

A third or subsequent DUI conviction occurring more than 10 years after a prior conviction carries a fine ranging from \$1,000 to \$2,500 and possible imprisonment of up to 12 months. However, if that offense occurs within 10 years of a previous DUI conviction, it is a third-degree felony, punishable by a minimum fine of \$1,000 but not exceeding \$5,000, and a term of imprisonment not to exceed five years. There is also a 30-day minimum mandatory imprisonment period. At least 48 hours of this confinement must be consecutive. The offense of felony DUI for a third conviction within 10 years of a prior conviction is a level three offense in the offense severity-ranking chart. Enhanced penalties also apply when a third time (or subsequent) offender's BAL is 0.20 or higher, or when a passenger under the age of 18 is present in the vehicle while the driver is DUI. These penalties require a fine ranging from \$2,000 to \$5,000 and imprisonment not exceeding 12 months.

A fourth or subsequent DUI conviction is a third-degree felony penalty, which is punishable by a minimum fine of \$1,000 but not exceeding \$5,000, and a term of imprisonment not to exceed five years. The offense of felony DUI for a fourth or subsequent DUI offense is ranked within level six of the offense severity-ranking chart.

#### *Generally*

Florida law establishes a point system to be used for the determination of the continuing qualification of any licensed driver to operate a motor vehicle. DHSMV must suspend the license of any person upon evidence that the person has been convicted of violations of motor vehicle laws amounting to the assessment of 12 points within 12 months, 18 points within 18 months and 24 points within 36 months. Persons cited for certain traffic infractions in Florida may, prior to conviction which is prior to the assessment of points, elect to attend a driver improvement course (no more than five times in a lifetime) and thus avoid the assessment of points; however, licensed drivers who are convicted of traffic violations (in-state or out-of-state convictions) cannot elect to attend a driver improvement course and thus cannot have points removed from their driving record.

In addition, drivers that make a third, fourth or fifth school election are authorized to only attend the same basic driver improvement course as a first or second election.

Florida's Point System

Section 322.27, F.S., establishes a system of points assessed against a driver's license when a person is convicted of violating certain motor vehicle laws. The point system is used for the evaluation and determination of the continuing qualification of any person to operate a motor vehicle. DHSMV is authorized to suspend the license of any person upon a showing of its records or other good and sufficient evidence the licensee has been convicted of violation of motor vehicle laws amounting to 12 or more points as determined by the point system. The suspension will be for a period of not more than one year. The statute specifies the following:

- When a licensee accumulates 12 points within a 12-month period, the period of suspension will be for not more than 30 days.
- When a licensee accumulates 18 points within an 18-month period, the suspension will be for a period of not more than three months.
- When a licensee accumulates 24 points within a 36-month period, the suspension will be for a period of not more than one year.
- The point system has, as its basic element, a graduated scale of points assigning relative values to convictions of the following violations:
  - Reckless driving—4 points
    - Leaving the scene of a crash resulting in property damage of more than \$50—6 points
    - Unlawful speed resulting in a crash—6 points
    - Passing a stopped school bus—4 points
    - Unlawful speed:
      - a. Not in excess of 15 miles per hour of lawful or posted speed—3 points
      - b. In excess of 15 miles per hour of lawful or posted speed—4 points
    - All other moving violations (including parking on a highway outside the limits of a municipality)—3 points
    - Any moving violation, excluding unlawful speed, resulting in a crash—4 points
    - Dumping litter in an amount exceeding 15 pounds, which involves the use of a motor vehicle—3 points
    - Driving during restricted hours—3 points
    - Violation of curfew—3 points
    - Open container as an operator—3 points
    - Child restraint violation—3 points.

Moving violations typically result in assessment of three points, unless the infraction or offense is among those viewed as more serious. For example, reckless driving, passing a stopped school bus, and speeding in excess of 15 mph over the posted limit all require assessment of four points. Leaving the scene of a crash and speeding resulting in a crash require assessment of six points. All other moving violations require assessment of three points.

- A conviction which occurred out-of-state or in a federal court may be recorded against a driver based on the same number of points received had the conviction been made in a court of this state.

- In computing the total number of points, when the licensee reaches the danger zone, DHSMV is authorized to send the licensee a warning letter advising any further convictions may result in suspension of their driving privilege.
- Three points are deducted from the driver history record of any person whose driving privilege has been suspended only once under the point system and has been reinstated, if such person has complied with all other requirements.
- The offense date of all convictions is used in computing the points and period of time for suspensions.
- DHSMV revokes the license of any person designated a habitual offender, as set forth in s. 322.264, F.S., and such person is not eligible to be relicensed for a minimum of five years from the date of revocation, except as provided for in s. 322.271, F.S. Any person whose license is revoked may, by petition to DHSMV, show cause why his or her license should not be revoked.
- DHSMV revokes the driving privilege of any person who is convicted of a felony for the possession of a controlled substance if, at the time of such possession, the person was driving or in actual physical control of a motor vehicle. A person whose driving privilege has been revoked pursuant to this subsection is not eligible to receive a limited business or employment purpose license during the term of such revocation.
- Review of an order of suspension or revocation is by writ of certiorari as provided in s. 322.31, F.S.

#### Driving Without a License

Any person whose driver's license or driving privilege has been canceled, suspended, or revoked, and who drives a vehicle upon the highways of this state while such license or privilege is canceled, suspended, or revoked is guilty of a moving violation, punishable by a fine of \$60 plus applicable court costs and fees. The fees and court costs vary county by county, but the total paid for each citation would range from \$112.50 to \$118.50 and an assessment of 3 points against the driver's license.

#### Driving Without Required Insurance or Security

Owners of vehicles must have evidence of required insurance, including financial responsibility requirements if applicable, when obtaining or annually renewing their vehicle registration and license tag (See s. 320.02, F.S.). Vehicle operators must also carry an insurance card, to demonstrate required coverage at all times while operating a motor vehicle (See s. 316.646, F.S.). Any person who violates this section is guilty of a nonmoving traffic infraction punishable by a fine of \$30 plus applicable court costs and fees and shall be required to furnish proof of security as provided in this section. The fees and court costs vary county by county, but the total paid for each citation would range from \$68.50 to \$74.50. If any person charged with a violation of this section fails to furnish proof, at or before the scheduled court appearance date, that security was in effect at the time of the violation, the court may immediately suspend the registration and driver's license of such person.

### No-Fault Law

Under the Florida Motor Vehicle No-Fault law, motor vehicle owners are required to maintain \$10,000 of personal injury protection (PIP) coverage at all times during the licensing or vehicle registration period. Subject to co-payments and other restrictions, PIP insurance provides compensation for bodily injuries to the insured driver and passengers regardless of who is at fault in an accident. This coverage also provides the policyholder with immunity from liability for economic damages up to the policy limits and for non-economic damages (pain and suffering) for non-permanent injuries. Property damage liability (PDL) coverage of \$10,000 is also required, which pays for the property damage expense caused by the insured to third parties in the accident.

To obtain driver compliance, Florida has enacted the following enforcement measures.

Section 627.736(9), F.S., requires each insurer which has issued a policy providing PIP benefits to report the renewal, cancellation, or nonrenewal thereof to DHSMV within 45 days from the effective date of the renewal, cancellation, or nonrenewal. Upon the issuance of a policy, providing PIP benefits to a named insured not previously insured by the insurer during that calendar year, the insurer must report the issuance of the new policy to DHSMV within 30 days.

Motorists must have proof of insurance when renewing their license, purchasing license tags or operating a vehicle.

As a result of enforcement of the measures listed above, the population of uninsured drivers has been reduced from 15 to 4 percent over the past five years.

### Financial Responsibility Law

The Florida “Financial Responsibility Law” (chapter 324, F.S.), requires drivers to demonstrate their ability to respond to damages for bodily injury caused in an accident. This law requires a minimum level of bodily injury liability (BI) insurance, or other allowable form of security, but only after a driver has been involved in an accident or convicted of certain serious traffic offenses. Such proof of BI coverage is not required as a condition of registering a vehicle, as is required for PIP and PDL, unless the Financial Responsibility law has been triggered by a prior accident or conviction. The minimum amounts of liability coverage required are \$10,000 in the event of bodily injury to, or death of, one person; \$20,000 in the event of injury to two or more persons; and \$10,000 in the event of injury to property of others; or \$30,000 combined single limit. If the owner or operator of the vehicle is not financially responsible at the time of an accident, that individual’s driver’s license is suspended as well as the registration of the owner of the vehicle. An individual can comply with the Financial Responsibility law in several ways: liability insurance, surety bond, deposit of cash or securities, or self-insurance.

### Trauma Care

Part II, chapter 395, F.S., governs trauma services and trauma center operations in Florida. There are 21 state-approved trauma centers in Florida. DOH regulates trauma centers and has developed minimum standards for trauma centers based on national trauma standards. DOH also has statutory authority to develop an inclusive trauma system to meet the needs of all injured

trauma victims, which is accomplished through the development of a state trauma system plan and coordination with local trauma agencies.

Section 395.4001, F.S., defines various types of trauma centers. A “Level I trauma center” is defined to mean a trauma center that:

- Has formal research and education programs for the enhancement of trauma care and is determined by DOH to be in substantial compliance with Level I trauma center and pediatric trauma referral center standards.
- Serves as a resource facility to Level II trauma centers, pediatric trauma centers, and general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care, including providing leadership, system evaluation, and quality improvement activities.

A “Level II trauma center” is defined to mean a trauma center that:

- Is determined by DOH to be in substantial compliance with Level II trauma center standards.
- Serves as a resource facility to general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care.

A “Pediatric trauma center” is defined to mean a hospital determined by DOH to be in substantial compliance with pediatric trauma referral center standards as established by rule of DOH.

Part II, chapter 395, F.S., places legislative emphasis on the need for an inclusive trauma system, which provides Floridians and visitors timely access to trauma care. Trauma standards and procedures are based on the “golden hour” principle, which is the optimal timeframe for the delivery of services to trauma victims. DOH has the primary responsibility for the oversight, planning, monitoring and establishment of a statewide inclusive trauma system. Of the 21 trauma centers in the state, specifically, there are seven Level I trauma centers, 12 Level II trauma centers, of which five are also pediatric centers, and two pediatric trauma centers only.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 318.1451, F.S., to provide for an additional assessment fee to be collected by driver improvement schools from each person who elects to attend a basic driver improvement course, in lieu of assessment of points on a driver record. The assessment fee would be \$25, for a third, fourth, or fifth election. All fees collected are to be remitted to the Department of Revenue (DOR) for deposit into the DOH Administrative Trust Fund. The fees are to be allocated as follows:

- Fifty percent equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services; and
- Fifty percent among Level I, Level II, and pediatric trauma centers based on each center’s relative volume of trauma cases as reported in the DOH Trauma Registry.

According to DHSMV, if school attendance remains at the current level, the maximum projected revenue would be \$500,525. This estimate assumes 20,021 persons paying an additional \$25 course fee. However, the additional fee may reduce the number of persons who actually attend. Currently, the DHSMV has no method to track or report to the schools how many elections the driver has previously taken.

**Section 2.** Amends s. 318.18, F.S., to increase the civil penalty from \$100 to \$200 for load violations. If the person is found to have committed the offense at a hearing, the court must impose the minimum civil penalty of \$200. The provision also increases the length of time the driver's license will be suspended, for a second or subsequent adjudication within a period of five years, from not less than 180 days and no longer than one year to not less than one year and no longer than two years.

DHSMV estimates that, based on the Annual Uniform Traffic Citations, there were 3,367 load violations resulting in a guilty, paid civil penalty, or adjudication was withheld by the clerk or judge. Assuming this population, increasing the civil penalty from \$100 to \$200 would generate \$336,700 annually.

**Section 3.** Amends s. 318.21, F.S., to require DHSMV to remit all fees collected from load violations (s. 316.520(1) or s. 316.520(2), F.S.) to DOR for deposit into the DOH Administrative Trust Fund to provide financial support of trauma centers. The fees are to be allocated as follows:

- Fifty percent equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services; and
- Fifty percent among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the DOH Trauma Registry.

**Section 4.** Creates s. 322.75, F.S., to provide a short title for ss. 322.75-322.754, F.S., which is known as the "Florida Driver Responsibility Law."

**Section 5.** Creates s. 322.751, F.S., to require DHSMV to assess a surcharge on each person who has accumulated seven or more points against his or her driver's license during the preceding 36-month period. The surcharge is \$100 for the first seven points and \$25 for each additional point. This CS also requires DHSMV to notify the holder of a driver's license of the assignment of a fourth point to provide an opportunity to avoid the surcharge. Assessment of this surcharge does not apply to any convictions final before July 1, 2005.

According to DHSMV, currently, there are 460,857 drivers who have accumulated seven or more points on their driving record within a 36-month period. Based on this population and assuming an 80 percent compliance factor by affected individuals, assessment of the surcharge could generate \$7,858,520 for the first year, \$27,303,420 for the second year and \$60,210,260 for the third year.

**Section 6.** Creates s. 322.7515, F.S., to require DHSMV to assess a surcharge on each person who has a final conviction during the preceding 36-month period for an offense relating to s. 316.193, F.S., DUI. The surcharge amount is \$1,000 per year for one conviction within the

preceding 36-month period, \$1,500 upon a second or subsequent conviction, and \$2,000 for a first or subsequent conviction if the blood-alcohol level was 0.20 or higher at the time the analysis was performed. This section does not apply to convictions final prior to July 1, 2005.

According to DHSMV, there were 42,167 DUI convictions in calendar year 2003. It is anticipated that actual revenue collections from assessment of the DUI surcharge will be minimal. In addition to the thousands of dollars in fines and surcharges already assessed on the DUI offender, the ignition interlock program has been implemented, which is another fee these offenders must pay. It usually takes about three years for 45 percent of the DUI offender population to comply with all requirements and reinstate their driving privilege. Therefore, assuming this level of convictions for future years and 25 percent of offenders possessing the financial ability to pay the minimum \$1,000 assessment fee, \$10,542,750 would be generated for year one, \$21,083,500 for year two and \$31,625,250 for year three.

**Section 7.** Creates s. 322.752, F.S., to require DHSMV to assess a \$250 surcharge on each person who has been convicted within the preceding 36-month period for driving without a license or without financial responsibility (ss. 322.03, 322.065, 324.021, or 627.733, F.S.). This section does not apply to a conviction prior to July 1, 2005.

For calendar year 2003, there were 38,038 convictions for driving without a license. It is anticipated that compliance with this section will be minimal, as violators will continue driving without a license due to their inability to pay the surcharge. The installment plan is less likely to have an effect on such violators. Therefore, assuming this level of convictions for future years and 25 percent of offenders possessing the ability to pay the \$250 assessment fee, \$2,377,375 would be generated for year one, \$4,754,750 for year two and \$7,132,125 for year three.

This section of the CS also requires DHSMV to assess a \$250 penalty annually on each person who has been convicted within the preceding 36-month period for a violation of ss. 324.021 and 627.733, F.S., relating to definitions and financial responsibility insurance requirements. Assessment of this penalty will have no fiscal impact as law enforcement officers do not issue traffic citations pursuant to these statutory cites.

**Section 8.** Creates s. 322.7525, F.S., to require DHSMV to notify the holder of a driver's license by first class mail of the assessment of a surcharge, the date by which the surcharge must be paid, and the consequences of a failure to pay the surcharge. If the surcharge is not paid or the person fails to enter into an installment payment agreement with DHSMV before the 30th day after the notice is sent, the person's driving privilege will be suspended until full payment of the surcharge and any related costs are paid or until the person has entered into an agreement for payment of the surcharge as provided in s. 322.753, F.S.

**Section 9.** Creates s. 322.753, F.S., to require DHSMV to provide for collection of all surcharges through an installment payment plan. If a licensee fails to pay or initiate an installment payment plan within 30 days of notification, the driver's license will be suspended. For amounts less than \$2,300, DHSMV may authorize an installment plan for up to 12 months. For amounts over \$2,300, DHSMV may authorize an installment plan for up to 24 months. Also, this section allows DHSMV the discretion to permit licensees to pay assessed surcharges with credit cards. In the event the credit card issuer returns a credit card payment, DHSMV must suspend driving

privileges until the assessment and any other related fees are paid. Implementation of this section will require the Bureau of Accounting to establish a system for such collections, tracking, follow-up correspondence, and contracted programming modifications to the Driver License Software Systems for the enforcement of these provisions.

**Section 10.** Creates s. 322.7535, F.S., to authorize DHSMV to enter into contracts with public or private vendors for the collection of all surcharges created under chapter 322, F.S.

**Section 11.** Creates s. 322.754, F.S., to provide for the deposit of moneys derived from surcharges collected by DHSMV under the Florida's Driver Responsibility Law into the DOH Administrative Trust Fund to provide financial support to trauma centers. In particular, collected money will be allocated as follows:

- Fifty percent equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services; and
- Fifty percent among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the DOH Trauma Registry.

**Section 12.** Provides that the CS take effect February 1, 2006.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

##### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

Persons electing to attend a driver improvement course, in lieu of driver's license points, would pay an additional assessment fee for a third, fourth, or fifth election.

Persons convicted of load violations would pay an additional fine.

Persons who are convicted for DUI, driving without a license or insurance, or who accumulate seven or more points on their driving record would be required to pay an annual surcharge for a three-year period to avoid license suspension.

**B. Private Sector Impact:**

Persons electing to attend a driver improvement course, in lieu of driver's license points, would pay an additional assessment fee for a third, fourth, or fifth election.

Persons convicted of load violations would pay an additional fine.

Persons who are convicted for DUI, driving without a license or insurance, or who accumulate seven or more points on their driving record would be required to pay an annual surcharge for a three-year period to avoid license suspension.

This CS will generate revenues for operation of trauma centers.

Although, a method of payment or compensation for vendors is not specified in the CS, a vendor contracting with DHSMV to collect the surcharges imposed under chapter 322, F.S., would most likely benefit by presumably either retaining a portion of the amounts collected or by being paid on some other contractual basis.

**C. Government Sector Impact:**

DOH would be required to implement procedures and processes to manage the Administrative Trust Fund revenues, determine allocation methodologies and disseminate funds. There are currently 21 trauma centers in Florida as follows: six level I trauma centers, seven level II trauma centers, five level II and pediatric trauma centers, and two pediatric only trauma centers. Shands Hospital at the University of Florida is a provisional level I trauma center.

Currently, DOH receives no funding to support the existing trauma centers. Trauma centers in Florida received a lump sum disproportionate share payment in fiscal year 2002 of approximately \$11,000,000 and 2003 of \$13,000,000, but in other years, they have received no reimbursement for uncompensated care.

According to DHSMV, enactment of the proposed surcharges could generate \$21.6 million during the first year, \$54 million for the second year, and \$100 million for the third year, based on prior year activity levels of traffic violations, point accumulations and attendance at driver improvement schools, and assuming compliance factors mentioned above. However, the actual amount collected will vary depending on the degree and efficiency of collection efforts, the ability of convicted individuals to pay the fees, and any reduction in violations resulting from the law's financial disincentives. The impact on collections of authorizing payments by either credit card or installment payment basis is unknown.

In addition, DHSMV has noted the additional fee to attend a driver improvement school may actually reduce the number of persons who attend. Section 318.1451, F.S., requires each person electing to attend a course offered by the schools to pay an assessment fee of \$2.50. This fee is used to administer the program and fund the general operations of DHSMV. Therefore, if the assessment of the additional fee creates a decline in school attendance, DHSMV may realize a reduction in the amount of revenue collected from the \$2.50 assessment fee.

The CS requires DHSMV to notify license holders regarding assessment of the annual surcharge. According to DHSMV, the estimated cost to mail notifications during the first year is \$191,683, and increases to \$317,742 and \$463,949 in years two and three due to population growth. This CS will also require contracted programming modifications to the Driver License Software Systems at a cost of \$634,550, which is based on 3,430 hours of contracted programming modifications at a rate of \$185 per hour. Contracting with a vendor for collection of surcharges would reduce DHSMV's workload for surcharge collection but would require substantial oversight for quality assurance by the Division of Driver Licenses, Bureau of Driver Improvement. The Bureau of Accounting may also realize workload increase due to the processing of additional revenue receipts.

#### **VI. Technical Deficiencies:**

This CS provides for a \$250 annual assessment fee against persons convicted of a violation of s. 324.021, F.S., within the previous 36-month period. Presently, law enforcement officers do not issue tickets for violations of s. 324.021, F.S. However, they do issue citations under s. 316.646(1), F.S., relating to failure to show proof of insurance, as required by chapter 627, F.S.

On page 6, line 13, the word "and" should be deleted.

On page 8, line 1, the word "certified" should be deleted, since trauma centers are not certified.

#### **VII. Related Issues:**

None.



---

## VIII. Summary of Amendments:

**Barcode 111142 by Health Care:**

Technical – the amendment deletes an extra “and.”

**Barcode 804432 by Health Care:**

Technical – the amendment deletes the word “certified” which modifies trauma centers because trauma centers are not certified.

---

This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.

---